

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LISTER HARRELL,	:	HABEAS CORPUS PETITION
Petitioner,	:	28 U.S.C. § 2241
	:	
v.	:	
	:	
HOMER BRYSON,	:	CIVIL ACTION NO.
Respondent.	:	1:15-CV-2235-WSD-JFK

**UNITED STATES MAGISTRATE JUDGE’S
FINAL REPORT AND RECOMMENDATION**

The matter is before the Court on Lister Harrell’s pleadings – a mandamus petition and application to file his petition *in forma pauperis*, which the Clerk of Court filed as a federal habeas corpus petition. (Pet., ECF No. 1; Appl., ECF No. 2). For the reasons discussed below, it is found that Mr. Harrell did not intend to file a federal action at this time.

Although Mr. Harrell mailed his pleadings to this Court’s address, in his cover letter to the Clerk of Court, Mr. Harrell states that he was instructed to file his pleadings in Fulton County. (Letter, ECF No. 1). Mr. Harrell’s mandamus petition is styled as being brought in the “Superior/Magistrate Court of Fulton County” and seeks to compel the Commissioner of the Georgia Department of Corrections to give him proper credit for time served. (Pet). This Court is a federal district court, and it is apparent that Mr. Harrell intended to file his pleadings in either the Fulton County


Magistrate, State, or Superior Court.¹ The undersigned finds that Mr. Harrell did not intend to file a federal habeas corpus petition at this time. As indicated in the attached Order for Service, if Mr. Harrell disagrees, he will have an opportunity to present his objections to this finding, and the District Court will review any such objections *de novo*.

For the reasons stated above,

IT IS RECOMMENDED that the instant action be **DISMISSED WITHOUT PREJUDICE**.

The Clerk is **DIRECTED** to withdraw the reference to the Magistrate Judge.

IT IS SO RECOMMENDED and DIRECTED, this 29th day of June, 2015.



JANET F. KING
UNITED STATES MAGISTRATE JUDGE

¹The addresses for those courts appear to be as follows: Clerk of Fulton County Superior Court, 136 Pryor Street SW, Suite C-155, Atlanta, GA 30303; Clerk of Fulton County State Court, Justice Center Tower, 185 Central Avenue, Atlanta, Georgia 30303; and Clerk of Fulton County Magistrate Court, Justice Center Tower, 185 Central Avenue, Atlanta, Georgia 30303.